

§ 52.39

40 CFR Ch. I (7–1–13 Edition)

to complete the allocation and recordation of TR NO_x Ozone Season allowances to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State's SIP revision.

[76 FR 48354, Aug. 8, 2011, as amended at 76 FR 80774, Dec. 27, 2011]

§ 52.39 What are the requirements of the Federal Implementation Plans (FIPs) for the Transport Rule (TR) relating to emissions of sulfur dioxide?

(a) The TR SO₂ Group 1 Trading Program provisions and the TR SO₂ Group 2 Trading Program provisions set forth respectively in subparts CCCCC and DDDDD of part 97 of this chapter constitute the TR Federal Implementation Plan provisions that relate to emissions of sulfur dioxide (SO₂).

(b) The provisions of subpart CCCCC of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States: Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin.

(c) The provisions of subpart DDDDD of part 97 of this chapter apply to sources in each of the following States and Indian country located within the borders of such States: Alabama, Georgia, Kansas, Minnesota, Nebraska, South Carolina, and Texas.

(d) Notwithstanding the provisions of paragraph (a) of this section, a State listed in paragraph (b) of this section may adopt and include in a SIP revision, and the Administrator will approve, as TR SO₂ Group 1 allowance allocation provisions replacing the provisions in § 97.611(a) of this chapter with regard to the State and the control period in 2013, a list of TR SO₂ Group 1 units and the amount of TR SO₂ Group 1 allowances allocated to each unit on such list, provided that the list of units and allocations meets the following requirements:

(1) All of the units on the list must be units that are in the State and commenced commercial operation before January 1, 2010;

(2) The total amount of TR SO₂ Group 1 allowance allocations on the list must not exceed the amount, under § 97.610(a) of this chapter for the State and the control period in 2013, of TR SO₂ Group 1 trading budget minus the sum of the new unit set-aside and Indian country new unit set-aside;

(3) The list must be submitted electronically in a format specified by the Administrator; and

(4) The SIP revision must not provide for any change in the units and allocations on the list after approval of the SIP revision by the Administrator and must not provide for any change in any allocation determined and recorded by the Administrator under subpart CCCCC of part 97 of this chapter;

(5) Provided that:

(i) By October 17, 2011, the State must notify the Administrator electronically in a format specified by the Administrator of the State's intent to submit to the Administrator a complete SIP revision meeting the requirements of paragraph (d)(1) through (4) of this section by April 1, 2012; and

(ii) The State must submit to the Administrator a complete SIP revision described in paragraph (d)(5)(i) of this section by April 1, 2012.

(e) Notwithstanding the provisions of paragraph (a) of this section, a State listed in paragraph (b) of this section may adopt and include in a SIP revision, and the Administrator will approve, regulations revising subpart CCCCC of part 97 of this chapter as follows and not making any other substantive revisions of that subpart:

(1) The State may adopt, as TR SO₂ Group 1 allowance allocation or auction provisions replacing the provisions in §§ 97.611(a) and (b)(1) and 97.612(a) of this chapter with regard to the control period in 2014 or any subsequent year, any methodology under which the State or the permitting authority allocates or auctions TR SO₂ Group 1 allowances and may adopt, in addition to the definitions in § 97.602 of this chapter, one or more definitions that shall apply only to terms as used in the adopted TR SO₂ Group 1 allowance allocation or auction provisions, if such methodology—

(i) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of TR SO₂ Group 1 allowances for any such control period not exceeding the amount, under §§ 97.610(a) and 97.621 of this chapter for the State and such control period, of the TR SO₂ Group 1 trading budget minus the sum of the Indian country new unit set-aside and the amount of any TR SO₂ Group 1 allowances already allocated and recorded by the Administrator.

(ii) Requires, to the extent the State adopts provisions for allocations or auction of TR SO₂ Group 1 allowances for any such control period to any TR SO₂ Group 1 units covered by § 97.611(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of TR SO₂ Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the following dates:

Year of the control period for which TR SO ₂ Group 1 allowances are allocated or auctioned	Deadline for submission of allocations or auction results to administrator
2014	June 1, 2013.
2015	June 1, 2013.
2016	June 1, 2014.
2017	June 1, 2014.
2018	June 1, 2015.
2019	June 1, 2015.
2020 and any year thereafter	June 1 of the fourth year before the year of the control period.

(iii) Requires, to the extent the State adopts provisions for allocations or auctions of TR SO₂ Group 1 allowances for any such control period to any TR SO₂ Group 1 units covered by §§ 97.611(b)(1) and 97.612(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of TR SO₂ Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1 of the year of such control period.

(iv) Does not provide for any change, after the submission deadlines in para-

graphs (e)(1)(ii) and (iii) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart CCCC of part 97 of this chapter;

(2) Provided that the State must submit a complete SIP revision meeting the requirements of paragraph (e)(1) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (e)(1)(ii) and (iii) of this section applicable to the first control period for which the State wants to make allocations or hold an auction under paragraph (e)(1) of this section.

(f) Notwithstanding the provisions of paragraph (a) of this section, a State listed in paragraph (b) of this section may adopt and include in a SIP revision, and the Administrator will approve, as correcting in whole or in part, as appropriate, the deficiency in the SIP that is the basis for the TR Federal Implementation Plan set forth in paragraphs (a), (b), (d), and (e) of this section, regulations that are substantively identical to the provisions of the TR SO₂ Group 1 Trading Program set forth in §§ 97.602 through 97.635 of this chapter, except that the SIP revision:

(1) May adopt, as TR SO₂ Group 1 allowance allocation or auction provisions replacing the provisions in §§ 97.611(a) and (b)(1) and 97.612(a) of this chapter with regard to the control period in 2014 and any subsequent year, any methodology under which the State or the permitting authority allocates or auctions TR SO₂ Group 1 allowances and that—

(i) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of TR SO₂ Group 1 allowances for such control period not exceeding the amount, under §§ 97.610(a) and 97.621 of this chapter for the State and such control period, of the TR SO₂ Group 1 trading budget minus the sum of the Indian country new unit set-aside and the amount of any TR SO₂ Group 1 allowances already allocated and recorded by the Administrator.

(ii) Requires, to the extent the State adopts provisions for allocations or auction of TR SO₂ Group 1 allowances for any such control period to any TR SO₂ Group 1 units covered by § 97.611(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of TR SO₂ Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the following dates:

Year of the control period for which TR SO ₂ Group 1 allowances are allocated or auctioned	Deadline for submission of allocations or auction results to administrator
2014	June 1, 2013.
2015	June 1, 2013.
2016	June 1, 2014.
2017	June 1, 2014.
2018	June 1, 2015.
2019	June 1, 2015.
2020 and any year thereafter	June 1 of the fourth year before the year of the control period.

(iii) Requires, to the extent the State adopts provisions for allocations or auctions of TR SO₂ Group 1 allowances for any such control period to any TR SO₂ Group 1 units covered by §§ 97.611(b)(1) and 97.612(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of TR SO₂ Group 1 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1 of the year of such control period.

(iv) Does not provide for any change, after the submission deadlines in paragraphs (f)(2)(ii) and (iii) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart CCCCC of part 97 of this chapter;

(2) May adopt, in addition to the definitions in § 97.602 of this chapter, one or more definitions that shall apply only to terms as used in the TR SO₂ Group 1 allowance allocation or auction provisions

adopted under paragraph (f)(1) of this section;

(3) May substitute the name of the State for the term “State” as used in subpart CCCCC of part 97 of this chapter, to the extent the Administrator determines that such substitutions do not make substantive changes in the provisions in §§ 97.602 through 97.635 of this chapter; and

(4) Must not include any of the references to, or requirements imposed on, any unit in Indian country within the borders of the State in the provisions in §§ 97.602 through 97.635 of this chapter and must not include the provisions in §§ 97.611(b)(2) and 97.612(b), all of which provisions will continue to apply under the portion of the TR Federal Implementation Plan that is not replaced by the SIP revision;

(5) Provided that, if and when any covered unit is located in Indian country within the borders of the State, the Administrator may modify his or her approval of the SIP revision to exclude the provisions in §§ 97.602 (definitions of “common designated representative”, “common designated representative’s assurance level”, and “common designated representative’s share”), 97.606(c)(2), 97.625, and the portions of other provisions referencing these sections and may modify the portion of the TR Federal Implementation Plan that is not replaced by the SIP revision to include these provisions;

(6) Provided that the State must submit a complete SIP revision meeting the requirements of paragraphs (f)(1) through (4) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (f)(1)(ii) and (iii) of this section applicable to the first control period for which the State wants to make allocations or hold an auction under paragraph (f)(1)(ii) and (iii) of this section.

(g) Notwithstanding the provisions of paragraph (a) of this section, a State listed in paragraph (c) of this section may adopt and include in a SIP revision, and the Administrator will approve, as TR SO₂ Group 2 allowance allocation provisions replacing the provisions in § 97.711(a) of this chapter with regard to the control period in 2013, a list of TR SO₂ Group 2 units and the

amount of TR SO₂ Group 2 allowances allocated to each unit on such list, provided that the list of units and allocations meets the following requirements:

(1) All of the units on the list must be units that are in the State and commenced commercial operation before January 1, 2010;

(2) The total amount of TR SO₂ Group 2 allowance allocations on the list must not exceed the amount, under § 97.710(a) of this chapter for the State and the control period in 2013, of TR SO₂ Group 2 trading budget minus the sum of the new unit set-aside and Indian country new unit set-aside;

(3) The list must be submitted electronically in a format specified by the Administrator; and

(4) The SIP revision must not provide for any change in the units and allocations on the list after approval of the SIP revision by the Administrator and must not provide for any change in any allocation determined and recorded by the Administrator under subpart DDDDD of part 97 of this chapter;

(5) Provided that:

(i) By October 17, 2011, the State must notify the Administrator electronically in a format specified by the Administrator of the State's intent to submit to the Administrator a complete SIP revision meeting the requirements of paragraph (g)(1) through (4) of this section by April 1, 2012; and

(ii) The State must submit to the Administrator a complete SIP revision described in paragraph (g)(5)(i) of this section by April 1, 2012.

(h) Notwithstanding the provisions of paragraph (a) of this section, a State listed in paragraph (c) of this section may adopt and include in a SIP revision, and the Administrator will approve, regulations revising subpart DDDDD of part 97 of this chapter as follows and not making any other substantive revisions of that subpart:

(1) The State may adopt, as TR SO₂ Group 2 allowance allocation or auction provisions replacing the provisions in §§ 97.711(a) and (b)(1) and 97.712(a) of this chapter with regard to the control period in 2014 and any subsequent year, any methodology under which the State or the permitting authority allocates or auctions TR SO₂ Group 2 al-

lowances and may adopt, in addition to the definitions in § 97.702 of this chapter, one or more definitions that shall apply only to terms as used in the adopted TR SO₂ Group 2 allowance allocation or auction provisions, if such methodology—

(i) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of TR SO₂ Group 2 allowances for any such control period not exceeding the amount, under §§ 97.710(a) and 97.721 of this chapter for the State and such control period, of the TR SO₂ Group 2 trading budget minus the sum of the Indian country new unit set-aside and the amount of any TR SO₂ Group 2 allowances already allocated and recorded by the Administrator.

(ii) Requires, to the extent the State adopts provisions for allocations or auction of TR SO₂ Group 2 allowances for any such control period to any TR SO₂ Group 2 units covered by § 97.711(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of TR SO₂ Group 2 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the following dates:

Year of the control period for which TR SO ₂ Group 2 allowances are allocated or auctioned	Deadline for submission of allocations or auction results to administrator
2014	June 1, 2013.
2015	June 1, 2013.
2016	June 1, 2014.
2017	June 1, 2014.
2018	June 1, 2015.
2019	June 1, 2015.
2020 and any year thereafter	June 1 of the fourth year before the year of the control period.

(iii) Requires, to the extent the State adopts provisions for allocations or auctions of TR SO₂ Group 2 allowances for any such control period to any TR SO₂ Group 2 units covered by §§ 97.711(b)(1) and 97.712(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such

units of TR SO₂ Group 2 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1 of the year of such control period.

(iv) Does not provide for any change, after the submission deadlines in paragraphs (h)(1)(ii) and (iii) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the Administrator under subpart DDDDD of part 97 of this chapter;

(2) Provided that the State must submit a complete SIP revision meeting the requirements of paragraph (h)(1) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (h)(1)(ii) and (iii) of this section applicable to the first control period for which the State wants to make allocations or hold an auction under paragraph (h)(1)(ii) and (iii) of this section.

(i) Notwithstanding the provisions of paragraph (a) of this section, a State listed in paragraph (c) of this section may adopt and include in a SIP revision, and the Administrator will approve, as correcting in whole or in part, as appropriate, the deficiency in the SIP that is the basis for the TR Federal Implementation Plan set forth in paragraphs (a), (c), (g), and (h) of this section, regulations that are substantively identical to the provisions of the TR SO₂ Group 2 Trading Program set forth in §§97.702 through 97.735 of this chapter, except that the SIP revision:

(1) May adopt, as TR SO₂ Group 2 allowance allocation or auction provisions replacing the provisions in §§97.711(a) and (b)(1) and 97.712(a) of this chapter with regard to the control period in 2014 and any subsequent year, any methodology under which the State or the permitting authority allocates or auctions TR SO₂ Group 2 allowances and that—

(i) Requires the State or the permitting authority to allocate and, if applicable, auction a total amount of TR SO₂ Group 2 allowances for any such control period not exceeding the amount, under §§97.710(a) and 97.721 of

this chapter for the State and such control period, of the TR SO₂ Group 2 trading budget minus the sum of the Indian country new unit set-aside and the amount of any TR SO₂ Group 2 allowances already allocated and recorded by the Administrator.

(ii) Requires, to the extent the State adopts provisions for allocations or auction of TR SO₂ Group 2 allowances for any such control period to any TR SO₂ Group 2 units covered by §97.711(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions for such control period (except allocations or results of auctions to such units of TR SO₂ Group 2 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator no later than the following dates:

Year of the control period for which TR SO ₂ Group 2 allowances are allocated or auctioned	Deadline for submission of allocations or auction results to administrator
2014	June 1, 2013.
2015	June 1, 2013.
2016	June 1, 2014.
2017	June 1, 2014.
2018	June 1, 2015.
2019	June 1, 2015.
2020 and any year thereafter	June 1 of the fourth year before the year of the control period.

(iii) Requires, to the extent the State adopts provisions for allocations or auctions of TR SO₂ Group 2 allowances for any such control period to any TR SO₂ Group 2 units covered by §§97.711(b)(1) and 97.712(a) of this chapter, that the State or the permitting authority submit such allocations or the results of such auctions (except allocations or results of auctions to such units of TR SO₂ Group 2 allowances remaining in a set-aside after completion of the allocations or auctions for which the set-aside was created) to the Administrator by July 1 of the year of such control period.

(iv) Does not provide for any change, after the submission deadlines in paragraphs (i)(1)(ii) and (iii) of this section, in the allocations submitted to the Administrator by such deadlines and does not provide for any change in any allocation determined and recorded by the

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Administrator under subpart DDDDD of part 97 of this chapter;

(2) May adopt, in addition to the definitions in §97.702 of this chapter, one or more definitions that shall apply only to terms as used in the TR SO₂ Group 2 allowance allocation or auction provisions adopted under paragraph (i)(1) of this section;

(3) May substitute the name of the State for the term “State” as used in subpart DDDDD of part 97 of this chapter, to the extent the Administrator determines that such substitutions do not make substantive changes in the provisions in §§97.702 through 97.735 of this chapter; and

(4) Must not include any of the references to, or requirements imposed on, any unit in Indian country within the borders of the State in the provisions in §§97.702 through 97.735 of this chapter and must not include the provisions in §§97.711(b)(2) and 97.712(b), all of which provisions will continue to apply under the portion of the TR Federal Implementation Plan that is not replaced by the SIP revision;

(5) Provided that, if and when any covered unit is located in Indian country within the borders of the State, the Administrator may modify his or her approval of the SIP revision to exclude the provisions in §§97.702 (definitions of “common designated representative”, “common designated representative’s assurance level”, and “common designated representative’s share”), 97.706(c)(2), 97.725, and the portions of other provisions referencing these sections and may modify the portion of the TR Federal Implementation Plan that is not replaced by the SIP revision to include these provisions;

(6) Provided that the State must submit a complete SIP revision meeting the requirements of paragraphs (i)(1) through (4) of this section by December 1 of the year before the year of the deadlines for submission of allocations or auction results under paragraphs (i)(1)(ii) and (iii) of this section applicable to the first control period for which the State wants to make allocations or hold an auction under paragraphs (i)(1)(ii) and (iii) of this section.

(j) Following promulgation of an approval by the Administrator of a State’s SIP revision as correcting in

whole or in part, as appropriate, the SIP’s deficiency that is the basis for the TR Federal Implementation Plan, the provisions of paragraph (b) and (c) of this section, as applicable, will no longer apply to sources in the State, unless the Administrator’s approval of the SIP revision is partial or conditional, and will continue to apply to sources in any Indian country within the borders of the State.

(k) Notwithstanding the provisions of paragraph (j) of this section, if, at the time of such approval of the State’s SIP revision, the Administrator has already started recording any allocations of TR SO₂ Group 1 allowances under subpart CCCCC of part 97 of this chapter, or allocations of TR SO₂ Group 2 allowances under subpart DDDDD of part 97 of this chapter, to units in a State for a control period in any year, the provisions of subpart CCCCC of part 97 of this chapter authorizing the Administrator to complete the allocation and recordation of TR SO₂ Group 1 allowances, or of subpart DDDDD of part 97 of this chapter authorizing the Administrator to complete the allocation and recordation of TR SO₂ Group 2 allowances, as applicable, to units in the State for each such control period shall continue to apply, unless provided otherwise by such approval of the State’s SIP revision.

[76 FR 48357, Aug. 8, 2011, as amended at 77 FR 10334, Feb. 21, 2012]

Subpart B—Alabama

§ 52.50 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan for Alabama under section 110 of the Clean Air Act, 42 U.S.C. 7401, and 40 CFR part 51 to meet national ambient air quality standards.

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to August 1, 2008, for Alabama was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the